

UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OHIO  
WESTERN DIVISION

John A. Smith,

Case No. 4:17-cv-2690

Petitioner,

v.

ORDER

State of Ohio,

Respondent.

Before me is the November 20, 2018 Report and Recommendation of Magistrate Judge Kathleen B. Burke, (Doc. No. 15), recommending I conclude the claims of pro se Petitioner John A. Smith have not been exhausted and that I dismiss Smith's petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2241 without prejudice. Further, the Federal Bureau of Prisons indicates Smith no longer is in government custody.<sup>1</sup>

Under the relevant statute, “[w]ithin fourteen days after being served with a copy, any party may serve and file written objections to such proposed findings and recommendations as provided by rules of court.” 28 U.S.C. § 636(b)(1); *United States v. Walters*, 638 F.2d 947, 949-50 (6th Cir. 1981). The fourteen-day period has elapsed and no objections have been filed.

The failure to file written objections to the Magistrate Judge's Report and Recommendation constitutes a waiver of a determination by the district court of an issue covered in the report.

*Thomas v. Arn*, 728 F.2d 813 (6th Cir. 1984), *aff'd*, 474 U.S. 140 (1985); *see also Walters*, 638 F.2d at 950

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<sup>1</sup> See Bureau of Prisons, <https://www.bop.gov/inmateloc/> Inmate No. 54878-060 (last accessed April 11, 2018).

(6th Cir. 1981); *Smith v. Detroit Fed'n of Teachers, Local 231*, 829 F.2d 1370, 1373 (6th Cir. 1987) (“only those specific objections to the magistrate’s report made to the district court will be preserved for appellate review”).

Following review of the Magistrate Judge’s Report and Recommendation, I adopt the Report and Recommendation, (Doc. No. 15), in its entirety as the Order of the Court, and dismiss Smith’s petition without prejudice.

So Ordered.

s/ Jeffrey J. Helmick  
United States District Judge